THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.1144 of 2007

Date:06.02.2007

Between

Ganto Manoj Kumar and another.

----------Petitioner

And

The District Registrar, Registration and Stamps Department, Visakhaptnam and another.

----------Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.1144 of 2007

ORDER:

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

In respect of certain extents of land in Survey Nos.51/1C, 169/5, 142/5, 142/6, 142/3 and 169/3 of Adivivaram Village, Chinagadhili Mandal, Visakhapatnam, the landlords/owners executed General Power of Attorneys (GPAs) in favour of the petitioners on different dates. These GPAs were presented to the 2nd respondent for registration. The registration was, however, not effected and the documents were kept pending registration.

Vide orders, dated 9.11.2004, the 2nd respondent declined registration of the GPAs

executed in favour of the petitioners, on the ground that Section 22 of the Registration Act, 1908 (for short 'the Act') was amended by incorporating Section 22-A by A.P. Act 4 of 1999 with effect from 1.1.1999 and that as per this provision the State Government was empowered to declare that the conveyance/registration of certain lands is opposed to public policy and to prohibit the registration of such notified lands by any registering authority. The 2nd respondent also recorded that the lands in Sy.Nos.142/5, 142/6, 142/3 and 169/3 of Adivivaram village had been notified by the Government by the issuance of a prohibitory order in G.O.Ms.No.508 Revenue (Regn.I) dated 28.7.2000 and therefore, he declines registration of the GPAs as the principals of the petitioners have, by the GPAs executed in favour of the petitioners, authorized the petitioners as agents to develop the schedule property and to transfer the schedule property under the powers of the GPAs. The 2nd respondent's order also recorded that an appeal against this order lay to the 1st respondent.

The petitioners thereupon preferred appeals

to the 1st respondent, which were rejected by the order dated 21.5.2005, upholding the orders of the 2nd respondent on the self-same grounds; namely the notification issued by the Government in G.O.Ms.No.508, pursuant to the power available under Section 22-A of the Act.

A Division Bench of this Court by the Judgment dated 21.2.2006 in W.P.No.14099 of 2003 and batch (K. RAMA DEVI V. PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD), following the judgment of the Supreme Court in STATE OF RAJASTHAN V. BASANT NAHATA (1.), declared Section 22-A of the Act, as unconstitutional. As the legislative foundation for the issuance of G.O.Ms.No.508 has ceased to exist and *ab initio* in view of the declaration of the unconstitutionality of the provision (Section 22-A), the prohibitory order of the Government must also be considered as still born. Consequently, the impediment to the registration of the GPAs presented by the petitioners to the 2nd respondent has ceased to operate.

For the aforementioned reasons, the 2nd

respondent's orders dated 9.11.2004 as well as the 1st respondent's orders dated 21.5.2005 are set aside. The 2nd respondent is directed to take up the GPAs presented by the petitioners for registration and consider its registration if the documents are otherwise in order and the petitioners/the presenters of the documents comply with the other necessary formalities for registration. The documents if otherwise eligible for registration shall be registered and furnished to the appropriate persons entitled to receipt of the documents. The 2nd respondent shall consider the documents for registration within a period of two (2) weeks from the date of re-presentation of the documents by the petitioners for registration.

The writ petition is allowed as above. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Date: 06.02.2007
Note: Issue C.C. in two days.
(B/o)
JSU

1. (2005) AIR SCW 4456